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WILLIAMSPORT  
SEP 07 2022  
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In The United States District  
For The Middle District of Pennsylvania

Michael Nelson, . Motion For Judgment Due To Procedural Default  
Plaintiff . Civil Action No. 4:22-cv-1238

v.  
Mroczka,  
Defendant .

On August 9, 2022 Plaintiff Nelson filed Civil Action No. 4:22-cv-1238 (Nelson v. Mroczka), in his Civil Complaint Plaintiff Nelson submitted Exhibits A, B and C, (Exhibit A) is the original filing of Grievance number 979996, (Exhibit B) is a copy of the Initial Level Extension of Grievance number 979996 and (Exhibit C) is a response to Grievance number 986158 which is a written admission by way a Pennsylvania Department of Corrections Official Document that response the Grievance number 979996, was untimely by Facility Grievance Coordinator (CSA) J. Mahally.

It has already been Established in the Thrid Circuit that a response to a grievance in a untimely manner, Constitutes a Procedural Default (see Min McKinney v. Helchner, 1:05-cv-0205)(3d Cir.). Plaintiff Nelson has given this Honorable Court a written admission that Grievance number 979996, was responded to in a untimely manner. So because of this Procedural Default any Defense from the Defendant must be taken as moot and judgment entered for the Plaintiff and all requested relief granted.

Respectfully Submitted

## Brief In Support of Motion For Judgment due to Procedural Default

By a written admission from the Facility Grievance Coordinator the Grievance Response to Grievance number 979996, was untimely amounting to a Procedural Default. This has already been Established in this Third Circuit. For this reason Plaintiff Nelson should be granted all requested Relief.

### § Certificate of Service

I, Michael Nelson HD4512, a Pro Se Plaintiff within the Pennsylvania Department of Corrections hereby Cause to be served a true and Correct Copy of this Motion For Judgment due to Procedural Default on 9/1/2022 to the Clerk of Courts at 240 West Third Street, Suite 218 Williamsport, PA 17701-6460.

**Initial Level Extension**

SCI Mahanoy  
301 Grey Line Dr  
Frackville, PA, 17931-0001

06/03/2022 01:05

<b>Inmate Name:</b>	NELSON, MICHAEL	<b>DOC #:</b>	HD4512
<b>Facility:</b>	Mahanoy	<b>Unit Location:</b>	H / C
<b>Grievance #:</b>	979996		

In accordance with the provisions of DC-ADM 804, Inmate Grievance System policy, this notification provides notice that staff requires an extension for responding to your grievance.

**Action:**

**Notice of Staff Extension** – This serves as written notification that an extension is necessary in order to appropriately investigate and respond to your grievance (or appeal). Staff has been authorized to extend the response time by 10 additional working days.

**Comments:**

Additional time is needed to investigate your grievance.

**Signature:****Name:****Title:****Date:**

cc: Facility Grievance Coordinator  
DC-15

*Y Mahanoy*  
*Y Mahanoy*  
Facility Grievance Coordinator  
*6-3-22*

DC-ADM 804, Inmate Grievance System Procedures Manual

Section 1 - Grievances & Initial Review, Attachment 1-E

Issued: 1/26/2016 Effective: 2/16/2016

HD4512 Grievance #: 979996

NELSON, MICHAEL

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## Initial Review Response

SCI Mahanoy  
301 Grey Line Drive  
Frackville, PA, 17931-0001

07/14/2022 10:23

<b>Inmate Name:</b>	NELSON, MICHAEL	<b>DOC #:</b>	HD4512
<b>Facility:</b>	Mahanoy	<b>Unit Location:</b>	H / A
<b>Grievance #:</b>	986158		

This serves to acknowledge receipt of your grievance to the assigned Grievance Officer. The response is as follows:

### Decision: Uphold In Part/Deny In Part

It is the decision of this Grievance Officer to uphold, deny, or uphold in part/deny in part the inmate's initial grievance. This response will include a brief rationale, a summary of the conclusion, any action taken to resolve the issue(s) raised in the grievance, and the relief sought.

### Response:

I am in receipt of your grievance 986158 in which you state you have not received an initial response to grievance 979996. You claim the response is untimely and is hindering your ability to appeal.

Upon review of all information, it is noted that grievance 979996 was received on 5/12/22. Given the 15 working days to respond, the grievance response was due by 6/17/22. However, the initial response was not completed until 6/21/22, which is beyond the 15 working day timeframe. Although the grievance was not answered timely, it will not interfere with your appeal rights. A copy of the grievance response is attached. You will be granted 15 working days from today, 7/14/22, to file your appeal.

Your grievance is upheld in part as the grievance was not answered timely, but denied in part as it will not prevent you from appealing the response.

**Signature:**

**Name:**

**Title:**

**Approver:**

**Date:**

CC: Facility Grievance Coordinator  
DC-15

J. Mahally

CSA

F. Walter

7-14-22

DC-ADM 804, Inmate Grievance System Procedures Manual

Section 1 - Grievances & Initial Review, Attachment 1-D

Issued: 1/26/2016 Effective: 2/16/2016

HD4512 Grievance #: 986158

NELSON, MICHAEL

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# Initial Review Response

SCI Mahanoy  
301 Grey Line Drive  
Frackville, PA, 17931-0001

07/06/2022 08:29

Inmate Name:	NELSON, MICHAEL	DOC #:	HD4512
Facility:	Mahanoy	Unit Location:	H / A
Grievance #:	979996		

This serves to acknowledge receipt of your grievance to the assigned Grievance Officer. The response is as follows:

## Decision: Grievance Denied

It is the decision of this Grievance Officer to uphold, deny, or uphold in part/deny in part the inmate's initial grievance. This response will include a brief rationale, a summary of the conclusion, any action taken to resolve the issue(s) raised in the grievance, and the relief sought.

## Response:

Mr. Nelson,

Your allegations against PSS Mroczka dated 5/9/2022 has been investigated. Ms. Mroczka was interviewed on 5/17/22 regarding your report that she stated "go right ahead and kill yourself". Mr. Mroczka vehemently denies this allegation. We were not able to find any other witnesses to this matter outside of yourself and Ms. Mroczka. This comes down to one persons word against the other and therefore cannot be proven. The reviewing of video footage is a moot point as the recordings do not include audio. Your grievance is denied.

## Signature:

Name:

J. Chuma

Title:

Approver:

J. Mahally

Date:

6-24-22

CC: Facility Grievance Coordinator  
DC-15

DC-ADM 804, Inmate Grievance System Procedures Manual

Section 1 - Grievances & Initial Review, Attachment 1-D

Issued: 1/26/2016 Effective: 2/16/2016

HD4512 Grievance #: 979996

NELSON, MICHAEL

Page 1 of 1

Mr. Michael Nelson HD4612  
301 Marca Road  
Frankville, PA 17932

INMATE MAIL  
PA DEPT OF  
CORRECTIONS

Clerk of Court  
U.S. Courthouse  
244 West Third Street, Suite 218  
Williamsport, PA 17701-1096

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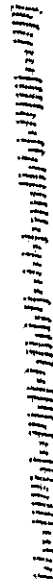
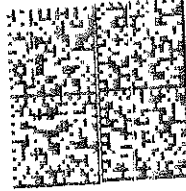
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09/02/2022 ZIP 17932

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